

Buckley 152057



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: S.W. Monroe Construction Company

File: B-257560

Date: June 30, 1994

DECISION

S.W. Monroe Construction Company raises several matters in connection with the Department of the Interior's award of a contract under the section 8(a) program.

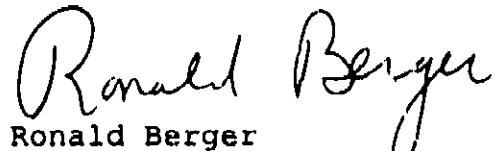
Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. V 1993), authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small business concerns. Because of the broad discretion afforded the SBA and the contracting agencies under the applicable statute and regulations, our review of actions under the section 8(a) program generally is limited to determining whether government officials have violated regulations or engaged in fraud or bad faith. See 4 C.F.R. § 21.3(m) (4); Lecher Constr. Co. - Request for Recon., B-237964.2, Jan. 29, 1990, 90-1 CPD ¶ 127. To show bad faith, the protester must present undeniable proof that the procuring agency had a malicious and specific intent to injure the protester. Ernie Green Indus., Inc., B-224347, Aug. 11, 1986, 86-2 CPD ¶ 178. The protester has not shown the reasonable likelihood of fraud or bad faith by government officials.

To the extent that the protester raises issues that we would nonetheless consider,¹ they are untimely raised. Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest,

¹For example, the protester complains about the adequacy of the SBA's adverse impact determination. In this regard, the protester refers to an SBA letter to the procuring activity accepting the procurement for award under the section 8(a) program, a copy of which the protester received on May 5, 1994. The protester should have been aware of this basis for protest when it learned of the section 8(a) award in the fall of 1993; moreover, the protest was filed with us on June 10, far more than 10 working days after May 5.

whichever is earlier. 4 C.F.R. § 21.2(a)(2). In this regard, a protester's receipt of oral information forming the basis of its protest is sufficient to start the 10-day time period running; written notification is not required. Swafford Indus., B-238055, Mar. 12, 1990, 90-1 CPD ¶ 268.

The protest is dismissed.


Ronald Berger
Associate General Counsel